

**United States District Court**

NORTHERN

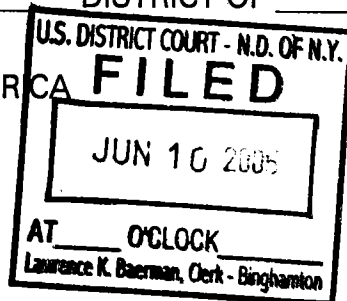
DISTRICT OF

NEW YORK

UNITED STATES OF AMERICA

v.

DAVID J. FALSO

SUPERSEDING  
CRIMINAL COMPLAINT (S1)Case Number: <sup>3</sup>05-mj-201 (DEP)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. Between in or about 2000 to the present in Cortland county, in the Northern District of New York, and elsewhere, defendant, who is a United States citizen, did:

- 1) knowingly and willfully use, persuade, induce and entice a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such sexually explicit conduct and where such visual depiction was transported in interstate and foreign commerce;
- 2) travel in foreign and interstate commerce for the purpose of engaging in illicit sexual conduct with a female minor under eighteen (18) years of age and did in fact engage in such illicit sexual conduct;
- 3) Knowingly receive child pornography and materials that contain child pornography that had been shipped and transported in interstate and foreign commerce by any means including by computer.
- 4) Defendant did also knowingly possess materials that contain images of child pornography that had been shipped and transported in interstate and foreign commerce by any means including by computer, and that were produced using materials that had been shipped and transported in interstate and foreign commerce by any means including by computer.

in violation of Title 18, United States Code, Section(s) 2251(a); 2423(b); 2423(c); 2252A(a)(2) & (a)(5); and 2256

I further state that I am a(n) FBI SPECIAL AGENT and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ YES ☐ NO

James T. Lyons, Jr.  
FBI S/A JAMES T. LYONS, JR.  
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me, and subscribed in my presence,

June 8, 2005

Date at

Binghamton  
Syracuse, New York  
City and State

DAVID E. PEEBLES, U.S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

David E. Peebles  
Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

James T. Lyons, Jr., having been duly sworn, states as follows:

1. I have been employed as a Special Agent of the Federal Bureau of Investigation (FBI) for eight years. I am currently assigned to the Albany Field Division, Binghamton, New York Resident Agency. While assigned to the FBI office in Binghamton, New York, I have served as the Affiant in applications for search warrants and requests for interception of electronic and wire communications. I have also participated in a myriad of investigations as an FBI Special Agent, to include matters involving the sexual exploitation of children via computers and the internet, specifically those addressing violations of Title 18, United States Code, Section 2252A, which criminalizes the possession, receipt, and transmission of child pornography. I have made arrests and conducted searches pertaining to these types of investigations.

2. This affidavit contains information for the limited purpose of establishing probable cause to arrest and charge David Jon Falso, date of birth: \_\_\_\_\_ 1941, with violations of production of child pornography, traveling in foreign and interstate commerce with the intent to engage in sexual acts with a minor, receipt and possession of child pornography, pursuant to Title 18, United States Code, Sections 2251(a); 2423(b) and (c); 2252A(a)(2); and 2252A(a)(5).

3. As this affidavit contains information for the limited purpose of establishing probable cause to arrest and charge Falso, it does not set forth complete facts of all known information in this investigation. The details listed within this document represent statements, observations, and factual information that have been obtained by your Affiant and other Special Agents of the FBI.

4. On June 1, 2005, Senior Judge Thomas J. McAvoy, United States District Court, Northern District of New York, signed a search warrant which authorized a search of \_\_\_\_\_ Cortland, New York, the residence of David J. Falso. The search warrant authorized law enforcement officers to search for items associated with the possession, receipt, and transmission of child pornography.

5. On June 8, 2005, federal agents conducted a search of \_\_\_\_\_ Cortland, New York. David J. Falso was present during the search and was interviewed by the FBI. Falso stated, in sum and substance, that he possessed images of child pornography at his residence. Falso admitted he stored images of child pornography in a box located in his bedroom and saved images (and video clips) of child pornography on his computer located in his living room. Falso admitted he utilized his computer to download and print the images of child pornography stored in the box in Falso's bedroom. FBI agents located the box (containing the child pornography) and Falso's computer, and both items, among other things, were seized as evidence.

6. I have personally viewed at least fifty images which were stored in the box located in Falso's bedroom. All of the images clearly depict pre-pubescent children engaged in explicit sexual poses and/or conduct. In addition, many of the images contain website information which is printed at the bottom of the image. Based upon this information, it is reasonable to conclude that these images were downloaded from various web sites by use of a computer.


7. When Falso was interviewed by the FBI on June 8, 2005, Falso also admitted, in sum and substance, that he previously traveled to foreign countries, to include Thailand, and engaged in sexual activity with young females. Falso admitted that he took photographs of his sexual activity with some of these young females in foreign lands.

8. During the search of Falso's residence, a box containing numerous photographs was located in Falso's bedroom. On June 9, 2005, your Affiant examined this box of photographs. Many of these photographs depict Falso engaged in sexual activity with females of Asian descent. At least one of these photographs depicts what appears to be a pre-pubescent Asian female lying naked on a bed. Another photograph depicts Falso and a young female lying naked on a bed.

9. Your Affiant has also reviewed Falso's United States Passport which was located at Falso's residence. Examination of Falso's United States Passport confirmed that Falso has previously traveled abroad to Thailand, Cambodia, the

Phillippines, and other countries.

10. WHEREFORE, your Affiant submits that based upon all of the information contained in this affidavit, there is probable cause to believe that Falso committed violations of Title 18, United States Code, Sections 2251(a); 2423(b) and (c); 2252A(a)(2) and 2252A(a)(5) (Production of Child Pornography; Traveling in Foreign and Interstate Commerce for the Purpose of Engaging a Minor in Sexual Acts; Possession of Child Pornography and Receipt of Child Pornography via Interstate or Foreign Commerce).

  
James T. Lyons, Jr.  
Special Agent  
Federal Bureau of Investigation

Sworn to and subscribed before  
me this 10<sup>th</sup> day of June, 2005

  
DAVID E. PEEBLES  
UNITED STATES MAGISTRATE JUDGE